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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,602	01/28/2002	Mark Ekern	E519-002-PAT	4018

7590

10/03/2003

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EXAMINER

ASHLEY, BOYER DOLINGER

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 10/03/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/058,602

Applicant(s)

EKERN, MARK

Examiner

Boyer D. Ashley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-14 and 16 is/are rejected.
- 7) ☒ Claim(s) 10, 11 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other:

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-16, drawn to a cutting stand having a carriage joined to the supports, classified in class 108, subclass 30.
- II. Claims 17-20, drawn to a method of cutting sheet goods, classified in class 83, subclass 13.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions of Groups II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, e.g., the process as claimed can be practiced by another materially different apparatus such as an apparatus not having the specific details of the carriage, 2x4 horizontal members.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Ivar M. Kaardal on 9/22/03 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-16.

Affirmation of this election must be made by applicant in replying to this Office action.

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Claims 17-20 are withdrawn from further consideration by the examiner, 37

CFR 1.142(b), as being drawn to a non-elected invention.

### ***Drawings***

5. The drawings are objected to because the signs "16", "78", "80", "68" are missing from Figures 1 and 3 and 4; appears that the sign "16" and "18" are used for the same element, see Figures 2 and 1. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

6. The abstract of the disclosure is objected to because it is in claim format.

Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, there is no positive antecedent basis for "the fasteners". The phrase "at least one horizontal member being selectively joined to sheet hooks" is confusing, in that, it is not clear how one horizontal member has more than one sheet hook. The phrase "at least one horizontal member" at the very minimal includes one horizontal member and therefore only one sheet hook is needed. Better language would be "at

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least one ... joined to a sheet hook". The phrase "a guide movably being adapted" is confusing, in that, it is awkwardly worded. Better language would be "a guide being movably adapted".

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kritske in view of Larson or King.

Kritske discloses the same invention as claimed including, for example, a pair of supports having feet (see the feet shown in Figure 1 under side 10), a lower upright (the frame 10 or the front and back unlabeled vertical members shown in Figure 1 as part of frame 10) joined to the feet and an angled upper upright (12 or 13 or 11) joined to the lower upright; a carriage (30) joined to the supports and capable of supporting a sheet good. However, Kritske lacks the use of a guide that is capable of being joined to the workpiece. Larson and King both disclose that it is old and well known in the art to use guides that are attached to workpieces for the purpose of providing a quick and easily assembled and disassembled saw guide. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use guide with the device of Kritske in order to provide a quick and easy guide attachment for cutting workpieces.

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As to claims 3-4, the lower upright is rotationally joined to the upper upright with a fastener (the bolts as shown in Figure 1).

As to claim 5, the supports are joined to connectors (the cross members shown in Figure 1)

As to claims 6 and 8, the carriage comprises horizontal members (22).

As to claim 7, the modified device of Kritske discloses the invention substantially as claimed except for the horizontal members being 2x4's. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use 2x4's for the angle irons of modified device of Kritske in order reduce costs while maintaining ease of assembly because the examiner takes Official Notice of the equivalence of 2x4's and angle irons for their use in the supporting art and the selection of any of these known equivalents to support a horizontal workpiece for angular movements would be within the level of ordinary skill in the art.

As to claim 9, the horizontal members are joined to the supports by connectors (23).

As to claims 12-14, the modified device of Kritske discloses the use of a guide with a foot (52), having a lip, and clamp (62), having a bracket selectively securable to a post (see Figure 5), joined to a straight edge (16). For example, see Larson's Figures 1 and 2.

#### ***Allowable Subject Matter***

11. Claim 1 appears to be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

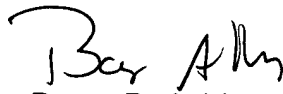
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12. Claims 10-11 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 703-308-1845. The examiner can normally be reached on Monday-Thursday 7:30-6:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

  
Boyer D. Ashley  
Primary Examiner  
Art Unit 3724

BDA  
September 4, 2003